IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1051 (S/S) of 2006

Ram Chandra Ravi,
S/o late Sri Darwari Singh,
R/o 147, D.L. Road,
Dehradun. **…….Petitioner**

V e r s u s

1. State of Uttaranchal through its Secretary, Forest, Dehradun.
2. Van Vikas Nigam through its Managing Director, Uttaranchal Van Vikas Nigam, Head Officer, Dehradun.
3. General Manager, Uttaranchal Van Vikas Nigam, Dehradun.

……Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Tanuj Semwal, learned counsel for the petitioner, Sri Paresh Tripathi, learned counsel for State of Uttaranchal on behalf of respondent no. 1 and Sri P.S. Danu, learned counsel for respondent nos. 2 and 3.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, petitioner has prayed for the following reliefs:

(a) issue a writ, order or direction in the nature of Certiorari to quash the order dated 30.06.2006 (Annexure No. 1) passed by respondents.

(b) issue a writ, order or direction in the nature of Mandamus commanding the respondents not to transfer/ relieve the petitioner form the place where he is serving.

(c) *issue a writ, order or direction in the nature of Mandamus direction the respondents to decide the representation of the petitioner.*

(d) *issue any other order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

(e) *award the cost of the petition to the petitioner.*

Petitioner is aggrieved by transfer order dated 30.06.2006 passed by respondent no. 2 i.e. Managing Director, Uttaranchal Van Vikas Nigam, Head Officer Dehradun by which petitioner, who is working as Officer Assistant Grade – I has been transferred from Dehradun to Garhwal Region.

The aforesaid transfer order has been challenged by the petitioner on two grounds. First, that the said transfer order has been passed in violation of Transfer Policy dated 26.06.2006 issued by State Government wherein it is specifically mentioned that before transferring any Government employee a Committee should be constituted for recommending proposals and the options may be taken from the employee, who are likely to be transferred, for his three places of his choice for posting. Firstly, the Transfer Policy does not have statutory force and secondly, the said policy is not applicable to the petitioner, as the said Transfer Policy is made for Government Servant and petitioner is an employee of Forest Corporation, consequently, he cannot claim, benefit of the aforesaid Transfer Policy.

The second ground of challenge is that petitioner's wife is working as Assistant Teacher (LT Grade) in Government School at Dehradun and according to Government Order dated

27.06.2006 issued by the state Government while transferring an employee efforts should be made to place the husband and wife at one place, in case, husband and wife both are Government Servants. As far as this Government Order is concerned, again this is in respect of Government employee as stated earlier, petitioner is not a Government servant he is an employee of Forest Corporation.

The submission of the learned counsel for the petitioner is that wife of the petitioner was earlier posted as Assistant Teacher (LT Grade) in Government School, Udham Singh Nagar. The transfer of Assistant Teacher (LT grade) is not permissible from one region to another and in case, the said transfer is made form one region to another on the request of teacher, the teacher will loose his/her seniority. The wife of the petitioner requested the department to transfer her from Udham Singh Nagar to Dehradun, consequently, she has been transferred and she has lost her seniority of about 8 years. Now, the petitioner has been transferred to Garhwal Region (Kotdwar) and petitioner's wife shall remain at Dehradun.

Petitioner has already made representation dated 07.07.2006, raising all his grievances before the respondent no. 2 i.e. Managing Director, Uttaranchal Van Vikas Nigam Head Office, Dehradun, (Annexure No. 3 to the writ petition). It is expected from respondent no. 2 i.e. Managing Director, Uttaranchal Van Vikas Nigam, Head Officer, Dehradun that he will take decision on the representation dated 07.07.2006 of the petitioner sympathetically considering the grievance of petitioner that his wife has lost seniority of about 8 years to get benefit of living with her husband and due to passing of impugned transfer order petitioner has lost the benefit of living

together along with loss of seniority of his wife for about 8 years. Respondent no. 2 shall pass speaking order on the representation of the petitioner within a period three weeks from the date of production of certified copy of this order.

With this direction the writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J)

August 03, 2006
SKSharma